



Recovering from Termites and Water: Slow and Steady

BY PETER
CARDILLO

The problem of both termite and rot damage in aging wood-framed buildings is very common and prevalent. Termite and rot damage exists for a variety of reasons. First, the builders and contractors who constructed condominium and

apartment complexes in the 1970–1990s generally preferred wood frame because of lesser costs. Choosing this form of construction over cement block construction creates inherent challenges that are inapplicable to block construction. Most significantly, the wood frame buildings are exposed to and are vulnerable to all forms of moisture. In Florida, the problem is obviously exacerbated because of subtropical conditions and significant annual rainfalls.

Moreover, many of the wood frame buildings constructed during this time period unfortunately left a lot to be desired in terms of quality. Certain construction details relating to flashing, gutters, roof pitches, moisture barriers, and the quality of actual framing often fell below acceptable standards. All of these factors and more can increase the risk to buildings.

Typically, apartment complexes are built more cheaply and with more corner cutting than buildings originally constructed as condominium buildings. With the significant increase in the conversions of apartment complexes, condominium associations have often essentially inherited poorly constructed buildings.

Additionally, in about 1987, the very effective pesticide chlordane was removed from the market because of environmental concerns. The subsequent termite treatments from the late 1980s through the early 2000s were far less effective than chlordane with regard to termite



PETER CARDILLO, FOUNDER OF CARDILLO LAW FIRM

For the last 13 years, the Cardillo Law Firm, based in Tampa, Florida, has been focusing its practice on defending the rights of real estate owners, community associations, and unit owners who have experienced structural termite damage or wood decay damage due to improper termite treatment, or who have been sold termite-damaged property. Board Certified Attorney Peter Cardillo is the founder of the Cardillo Law Firm, which focuses on termite-related legal matters. He may be reached by e-mail at Pete@cardillolaw.com or by phone at (877) 642-2873. For more information, visit the website at www.cardillolaw.com.

treatment. This is a significant factor that served to greatly increase the termite and wood rot risk factors associated with wood frame buildings.

Thus, we have a perfect storm with a confluence of several factors, which leaves condominium associations exposed—substandard construction, the aging of buildings, and a significant period of ineffective termite treatment. The problem is widespread and will only get worse as buildings age.

If significant efforts are not undertaken to both identify and address these problems by association boards and community association management, the problem can create a significant expense and expose the board to legal issues. We have seen several associations have their buildings red-tagged or condemned by building departments because the problem was so severe and was ignored for such a long time.

Unfortunately, the historical approach has often been either a band-aid solution or the ostrich approach—head in the sand. These problems are unquestionably daunting, but band-aid or ostrich approaches simply defer the problem, which will only get worse.

The most effective fix is to take the problem head on as soon as practical. We recognize that communities are financially challenged, but there are resources which can aid this effort tremendously—most importantly, insurance coverage for these losses.

The Cardillo Law Firm has represented a 192-unit association for 10 years. The complex was built in 1981–1984 and is located in Palm Beach County. The problem at the outset was somewhat typical; both termite and rot damage had been identified at the property, but fortunately in this instance, the association aggressively sought assistance. Like many associations, this association was financially strapped. Because our law firm handles these claims on a contingency fee basis, however, the association was able to move forward without significant financial impact.

The 29 buildings are all wood framed with stucco exteriors, a combination which is often deadly, as it was at this property. However, the association manager and the association worked hard to find a solution to the problem. The key aspect which led to success was pursuing several sources of recovery to address the

Continued on pg.57

TRAINING OPPORTUNITIES

July 7 NOON-1:30 P.M.

- **BPBALLOT Live Demonstration**
- Presented by Becker & Poliakoff
- 1 E. Broward Blvd., Ste. 1800, Fort Lauderdale, FL
- To register, call Amy Way at (954) 985-4153 or e-mail away@bplegal.com

July 12 6:45-7:45 P.M.

- **Guest Restrictions and Screening Tenants and New Owners: Is It Worthwhile?**
- Presented by Kaye Bender Rembaum
- 1200 Park Central Blvd., South, Pompano Beach, FL
- To register, call (954) 928-0680 or e-mail seminars@KBRLegal.com.

July 19 6:30-7:30 P.M.

- **Jumping into the Present: Why Updating the Governing Documents of Your Association is Critically Important Course**
- Presented by Kaye Bender Rembaum
- 1200 Park Central Blvd., South, Pompano Beach, FL
- To register, call (954) 928-0680 or e-mail seminars@KBRLegal.com.

July 27 6:00-8:30 P.M.

- **Jumping into the Present: Why Updating the Governing Documents of Your Association is Critically Important Course**
- Presented by Kaye Bender Rembaum
- 9121 North Military Trail, Suite 200, Palm Beach Gardens, FL
- To register, call (561) 241-4462 or e-mail trisha@KBRLegal.com.

To send updates, please e-mail mhamline@fcapgroup.com. ■

Continued from pg.53

termite/rot damage. This included pursuing not only the termite company, a nationally known and recognized pest control company, but also four separate insurance companies. In pursuing multiple insurance carriers for this damage, it is important to understand how termite and rot damage occur. This type of damage or loss is known as a progressive loss, meaning that it occurs over a long period of time, over many years, as opposed to a hurricane or fire which occurs over a day. This allowed our firm to pursue multiple insurance carriers over literally a 21-year period. The association therefore had a very aggressive, yet patient, approach to recovering its losses with as much money as it could from numerous sources of recovery.

First and foremost, this approach requires an understanding that pursuing multiple insurance claims will take time and is a tricky and complicated approach. However, in the end, it led to a significant gross recovery of \$2.8 million for the association. The settlements allowed the association to properly address repair issues in an intelligent manner and do what was best for their members and the integrity of the property. ■



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